

REMARKS

Claims 1 – 24 are pending in the application. In response to the restriction requirement, claims 15-23 have been withdrawn. Election of claims 1-14 and 24 in response to the restriction requirement is hereby affirmed. Reconsideration and allowance of claims 1-14 and 24 in light of the arguments herein is respectfully requested.

Objection to the Specification

The Examiner has objected to the Abstract of the disclosure pursuant to MPEP §608.01(b) in that the term "said" is used. By this paper, Applicant has amended the Abstract, substituting the word "the" for the word "said" in two places. A replacement sheet with the corrected Abstract is included herewith. Withdrawal of the objection to the specification is respectfully requested.

Amendment of Claims 13 and 24

Claims 13 and 24 have been amended to correct minor typographical errors noted during review of the application. Specifically, the spelling of "cavites" has been corrected to --cavities--. No new matter is added by this amendment and the amendment is made merely to improve the readability of the claim, not for any reason related to patentability.

Rejection of Claims 1 – 12 Pursuant to 35 U.S.C. §102(b) or §103(a)

Claims 1-12 stand rejected under 35 U.S.C §102(b) as being anticipated by the San Jose Mercury News article "Clinton Aide Denies Cemetery Plots Were Sold" ("Article"). In the alternative, these claims stand rejected under 35 U.S.C. §103(a) as being obvious over this article. These rejections are respectfully traversed. The Article fails to disclose all the elements of claims 1-12.

The Article fails to disclose all the limitations of claims 1-12

A rejection under either 35 U.S.C. §102(b) or §103(a) may be only maintained if all the limitations of the claim are shown or inherent in the applied reference(s). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. The prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143. These requirements are not met by the present rejection.

Independent claim 1

Claim 1 requires the step of “providing a storage and display case, wherein said storage and display case comprises a plurality of spaces for housing a single or a plurality of cremation storage vessels in each space.” The Article does not disclose a “storage and display case,” only a burial plot. The Article does not disclose that these burial plots contain storage for “housing a single or a plurality of cremation storage vessels.” In fact, cremation is not discussed or disclosed in the Article. Rather, the Article merely discloses allegations that the Clinton administration sold burial plots in Arlington National Cemetery.

Further, the article fails to disclose “selling said spaces to donors by an entity for raising funds through the sale of said spaces, wherein said donors are associated with said entity.” The office action points to language in the Article about an individual who “contributed generously to the campaign and served as ambassador during Clinton administration.” However, the Article does not disclose that the individual purchased a burial space—in fact, the article notes that the individual had “served in the Merchant Marines during World War II,” and had received a waiver from the secretary of the Army permitting his burial in Arlington National Cemetery.

Moreover, even absent these noted problems, the proposed interpretation offered by the office action. Under the office action’s proposed interpretation of the Article, the Clinton administration presumably provides the burial plots to the Clinton campaign (“the provider” and “the entity,” respectively, as recited in claim 2). However, in the passage relied on by the office action, the Article refers to contributions by the

individual to "Clinton's 1992 campaign." In 1992, Bill Clinton was governor of Arkansas, not the President of the United States, and was in no position to provide burial plots to campaign donors. Clinton was not yet the President and the "Clinton Administration" did not yet exist. The analogy proposed by the office action simply fails to fit the facts of the Article, few as they are, to the recitation of the claims.

There is a further problem with this proposed application of the Article to the present claims including claim 1. In the Article, the donor who made the alleged contribution gave the contribution to the Clinton campaign ("the entity," as recited in claim 1 and proposed by the office action), not the Clinton Administration. However, as an ambassador, the individual was "associated with" (as recited in claim 1) the Clinton Administration, not the Clinton campaign. Therefore, the quoted limitation is not disclosed in the Article.

Since the cited reference fails to disclose "each and every element as set forth in" claim 1, claim 1 can not be anticipated by the Article. Withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b) is respectfully requested.

With respect to the rejection under 35 U.S.C. § 103(a) of claim 1, this rejection may not be maintained. As noted, the Article fails to show, describe or suggest "providing a storage and display case, wherein said storage and display case comprises a plurality of spaces for housing a single or a plurality of cremation storage vessels in each space" as recited by claim 1. The Article merely refers to burial plots at Arlington National Cemetery. The article makes no reference to or suggestion of cremation or cremation storage vessels or spaces for housing them or a display case with such spaces. Further, the Article fails to show, describe or suggest "selling said spaces to donors by an entity for raising funds through the sale of said spaces, wherein said donors are associated with said entity." In fact, the reference to selling burial plots in Arlington National Cemetery is merely a bald allegation of the Article—all individuals quoted in the Article deny the activity. The Article therefore cannot be said to suggest the action of selling burial plots to donors. The Article even more certainly cannot be said to suggest the limitations of claim 1. Since the reference does not "teach or suggest all the claim limitations" as required by MPEP §2143, the 35 U.S.C. § 103(a)

rejection of claim 1 may not be maintained. Withdrawal of the rejection of claim 1 under 35 U.S.C. § 103(a) is respectfully requested. It is respectfully submitted that claim 1 is allowable over the prior art of record.

Dependent claims 2-12

With respect to claims 2-12, these claims depend upon claim 1 and add further limitations thereto. These claims are therefore allowable for the same reasons.

Moreover, with respect to claims 2-5, the office action asserts that "these are inherently included in the process of ARTICLE 11/1997 pages 1-2 wherein the Administration provides the burial plot which normally contains storage and display cases to the Campaign Administration and the Administration would inherently receive the money from the donor in return." The office action further asserts that "claim 6 is inherently included in the teaching of ARTICLE 11/1997" and that claims 9-12 "are taught or inherently included in ARTICLE 11/1997, pages 1-2."

The assertion of inherency of the teaching of claims 2-6 and 9-12 is respectfully traversed. The required evidence necessary to prove inherency is missing from the office action. "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." MPEP § 2112. The office action fails to provide the required basis in fact or technical reasoning. For example, claim 9 recites that "said storage and display case is located on said entity's property," claim 10 recites "wherein said cremation storage vessels contain ashes of deceased living beings" and claim 11 recites "wherein said ashes of deceased living beings are of deceased living beings associated with said entity." As another example, claim 2 recites that "a provider provides said storage and display case to said entity." However, the Article makes no mention of storage and display cases or cremation or cremation storage vessels, nor does the Article mention handling the ashes of deceased living beings who have been associated with an "entity" such as the Clinton administration or the Clinton campaign. The Article simply reports on apparently untrue allegations of campaign impropriety and fails to disclose or

suggest any details of fund raising methods involving cremation storage vessels. The office action attempts to transport an article reporting political news into a disclosure of a method of raising funds—an effort which fails because the article simply lacks enough detail to describe or suggest the features of the claimed invention and because the article is about an altogether different topic. As a result, the office action fails to provide the required basis in fact or technical reasoning to reasonably support its determination that the allegedly inherent characteristics of claims 2-6 and 9-12 necessarily flow from the teachings of the Article.

Accordingly, claims 2-12, which are dependent from claim 1, are submitted to be allowable over the prior art of record.

The Article fails to disclose all the limitations of claims 13, 14 and 24.

Claims 13, 14 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Article in view of U.S. patent number 6,088,973 to Weiss (“Weiss”). According to the office action, the Article provides “the teaching of a method for raising funds or selling burial plots at well know cemetery (Arlington National Cemetery) in exchange for campaign contribution.” The office action further asserts that it would have been obvious to modify the process of ARTICLE 11/1997 by using a well know columbarium as taught by WEISS to improve display indicia (messages and images) for the personal memory of the deceased person. Moreover, the use of columbarium in WEISS would inherently reduce the space required for burial in a limited space as in the most precious Arlington National Cemetery....”

This rejection is respectfully traversed. The primary reference, the Article, fails to disclose limitations of claims 13, 14 and 24, taken alone or in combination with Weiss. The Article merely reports on allegations of a political fundraising scandal, allegations which are denied within the article and which are not otherwise corroborated. While a reference is prior art for all that it teaches, MPEP § 2121.01, the Article lacks the detail of disclosure of anything beyond a small aspect of daily news. The Article does not teach “A method of raising funds and storing and displaying in a secure fashion a variable plurality of cremation storage vessels,” as recited by claims 13, 14 and 24.

Specifically, the Article fails to disclose "a provider providing a storage and display case to an entity, wherein said storage and display case has locations for retaining in a secure fashion a plurality of cremation storage vessels," as recited by claim 13, or a similar but differently worded limitation of claim 14, or in claim 24, a limitation reciting that an entity "obtain[s] a storage and display case from a provider." Even if Weiss is relied on for teaching a columbarium, it does not change the fact that the Article merely contains a news story about campaign corruption and does not disclose or suggest the recited limitation.

Further, claim 13 recites "reserving and selling said cavities by said entity to donors." Claims 14 and 24 recite similar limitations. This disclosure is missing from the Article as well. The Article merely contains political news about a single alleged improper campaign contribution, which is further denied to be true by all persons reported in the Article to have knowledge of the matter. Even if the Article is read so broadly as to actually disclose a scheme for raising funds, the Article at most discloses and suggests taking funds from a campaign contributor for an improper purpose, selling a burial plot in Arlington National Cemetery. Because only a single contributor is alleged and because the purpose is illegal ("Burial at Arlington is limited largely to members of the armed forces and veterans discharged under honorable and other exceptional conditions"), the Article can not be said to disclose or suggest "reserving and selling" burial plots.

Still further, the Article fails to disclose "said provider receiving a specified portion of funds raised by said entity through said selling of said cavities," as recited by claim 13, or similar payment arrangements of claims 14 and 24. The Article fails to disclose a suitable "provider" and "entity" which perform or performed the recited acts. The Article mentions that an individual named Larry Lawrence "contributed generously to Clinton's 1992 campaign...and was buried in Arlington [National Cemetery] after receiving a waiver from the secretary of the Army." However, the Article does not describe or suggest any provider which receives a portion of funds raised by an entity. First of all, there is no evidence provided in the Article that Lawrence was actually given a burial plot in return for such a donation. Moreover, the office action appears to suggest that

Application serial no. 09/755,777
Amendment dated March 8, 2004
Reply to Office Action dated October 6, 2003

the "Clinton campaign" was the provider of the burial plot and the Administration was the entity to receive the donation. This analogy fails on its face because the Article refers to "Clinton's 1992 campaign." During 1992, Bill Clinton was Governor of Arkansas and in no position to reserve, sell and share donations from sale of Arlington burial plots.

Because the Article and other prior art of record fail to disclose all the limitations of claims 13, 14 and 24, the 35 U.S.C. § 103(a) rejection of these claims may not be maintained. Withdrawal of this rejection and allowance of these claims is therefore respectfully requested.

With this response, the application is believed to be in condition for allowance. Should the examiner deem a telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the telephone number below.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John G. Rauch", is written over a horizontal line.

John G. Rauch
Registration No. 37,218
Attorney for Applicant

March 8, 2004
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200